

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Peter Curley

Plaintiff,

vs.

Tradition Senior Living L.P.

Defendant

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Civil Action No. _____

PLAINTIFF'S COMPLAINT AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Peter Curley, hereinafter referred to as Curley, complaining of Tradition Senior Living LP, and for cause of action would respectfully show this Court the following:

PARTIES

1. Curley is a Texas resident and currently resides at 5013 Roundtable Lane, Garland, Texas, 75044.
2. Tradition Senior Living LP is a Texas corporation with its principal place of business located at 5850 E. Lovers Lane, Dallas, Texas 75206, and can be served with process by serving its registered agent, Jonathan Perlman, its registered agent, at the same address.

JURISDICTION

3. Jurisdiction of this Court is invoked under 28 U.S.C. § 1343(a)(4) and 28 U.S.C. § 1331 and §1337. This is a suit authorized and instituted pursuant to the Age Discrimination in

Employment Act, 29 U.S.C. §621 (the “ADEA”) and Americans with Disability Act (“ADA”) and seeks declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

4. This is a proceeding for declaratory judgment, injunctive relief, damages, compensatory damages, liquidated damages, punitive damages, attorneys’ fees, and other relief to secure the rights of Curley. It is brought to prevent Tradition Senior Living LP from maintaining a policy, practice, custom or usage of discriminating against employees, including Curley, because of their age.

FACTS

5. Tradition Senior Living LP operates four senior care and assisted living facilities serving hundreds of residents in Dallas, Texas.
6. Tradition Senior Living LP hired Curley as an executive chef in June 2014.
7. Tradition Senior Living LP routinely recognized Curley’s high level of performance and work ethic, and acknowledged such performance with various certificates and awards, including Employee of the Month.
8. The position supervising Curley, Food and Beverage Director, became vacant in 2015. Curley was told by the Defendant to cover the duties of Food and Beverage Director for only three months until the position was filled. It turned out the vacancy was over one year until Robbin Murphy filled the position in around April 2017. As a result, Curley had been constantly working for more than ten hours a day with a staff shortage. The work environment was hostile.
9. In May, 2017, Curley developed a knee problem due to constant standing and working overtime. It became apparent that Curley limped every step he walked. Robbin Murphy

noticed Curley was limping and inquired if Curley was in pain. Robbin Murphy indicated to Curley that Curley should switch to some consulting position.

10. On June 15, 2017, Curley was called to an office and notified that Curley was being terminated because Tradition Senior Living is “going to a different direction”. Curley was not given any legitimate reason of the termination or proper review of his performance. Instead, Tradition Senior Living handed Curley a separation agreement containing a confidentiality clause. Tradition Senior Living further proposed to organize a retirement party expecting Curley to tell the residents living in the facilities that Curley chose to retire when Curley was bound by the confidentiality agreement. Curley declined to participate in the proposed scheme that would force him to lie.
11. Tradition Senior Living hired a much younger executive chef, Mr. Fraser, 54 to replace Curley. Mr. Fraser was terminated within a few months and Tradition Senior Living hired an even younger chef, Mr. Townsend, 36.

CAUSE OF ACTION

ADEA Violation

12. At the time of termination Curley was over 40 and was qualified for the job.
13. Tradition Senior Living replaced him with substantially younger persons or otherwise treated him differently than substantially younger and similarly situated persons.
14. The reasons given by Tradition Senior Living for its actions are either false or not credible.
15. Tradition Senior Living engaged in continued disparate treatment before his termination creating a hostile work environment.
16. Tradition Senior Living willfully violated the ADEA and engaged in a pattern and practice of discrimination.

17. Tradition Senior Living's actions violate the ADEA and caused continuing damages to Curley.

ADA Violation

18. Curley's limping condition is an actual disability as defined under the ADA. The limping is a physical impairment that substantially limits major life activities.

19. Tradition Senior Living perceived Curley as having a physical or mental impairment that substantially affects a major life activity.

20. The disability was a motivating factor for firing Curley. The reasons for Tradition Senior Living's actions were not legitimate or credible.

21. The actions were knowing and intentional violations of the ADA, or in reckless disregard of the ADA and Curley's rights.

22. The acts, practices, and policies of Tradition Senior Living, including its pattern and practice of discrimination, caused damage to Curley in the form of back pay, interest on back pay, front pay, lost benefits and other compensatory damages including attorney's fees, to which he is entitled under the ADA.

DECLARATORY JUDGMENT

23. Curley is entitled to a declaratory judgment, declaring Tradition Senior Living's past practices to be in violation of the ADEA and ADA and is also entitled to equitable relief in the form of an injunction prohibiting Tradition Senior Living from engaging in unlawful employment practices, reinstating Curley's employment with back pay, and reporting on the manner of compliance with the court order.

ATTORNEYS' FEES

24. Curley retained the services of the undersigned attorney to prosecute the cause. Under the

ADEA, Curley is entitled to a reasonable amount for attorney's fees and expenses for all services rendered in this cause, including trials and appeals.

JURY DEMAND

25. Curley seeks a trial by jury of all issues to which the laws of the United States or the state of Texas allow a trial by jury.

WHEREFORE, Curley requests that upon final trial, Curley have judgment against Tradition Senior Living for reinstatement; lost wages and benefits; liquidated damages; attorneys' and expert fees and expenses; injunctive and declaratory relief; interest as provided by law; costs of suit; and any further relief to which Curley may be entitled.

Respectfully submitted,

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